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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,770	11/21/2001	Melody Vos	5253-04200	1825
29855	7590	04/20/2005	EXAMINER	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			RONES, CHARLES	
			ART UNIT	PAPER NUMBER
			2164	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,770

Applicant(s)

VOS ET AL.

Examiner

Charles Rones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 041105.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Amendment

The request for reconsideration timely filed on February 16, 2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Barritz U.S. Patent No. 5,590,056 ('Barritz'), which is applicant's admitted prior art.

Barritz discloses:

As to claims 1, 16, and 31,

determining actions to be performed on one or more database objects to modify the one or more database objects, wherein a database comprises the one or more database objects; performing the actions on the database objects; See 6:55-65; 7:56-67; 9:11-62; 10:50-67;

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monitoring results of the performing the actions on the database objects; and reconfiguring one or more policies or definitions associated with the database based on the monitoring the results of the performing the actions on the database objects; See 9:11-62; 10:50-67.

As to claims 2, 17, and 32,

automatically determining a schedule for performing the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule; See 9:11-62; 10:50-67.

As to claims 3, 18, and 33,

wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule; See 9:11-62; 10:50-67.

As to claims 4, 19, and 34,

confirming the performing the actions on the database objects; See 11:1-39.

As to claims 5, 20, and 35,

collecting statistics relating to operation of a database; See 9:11-62; 10:50-67;
11:1-39; and

determining characteristics of the database objects; ; See 9:11-62; 10:50-67;
11:1-39.

As to claims 6, 21, and 36,

wherein the determining the characteristics of the database objects comprises
automatically determining the characteristics of the database objects; See 9:11-62;
10:50-67; 11:1-39.

As to claims 7, 22, and 37,

wherein the determining the actions to be performed on the database objects
comprises determining the actions to be performed on the database objects based on
the characteristics of the database objects; See 9:11-62; 10:50-67; 11:1-39.

As to claims 8, 23, and 38,

wherein the determining the actions to be performed on the database objects
based on the characteristics of the database objects comprises automatically
determining the actions to be performed on the database objects based on the
characteristics of the database objects; See 9:11-62; 10:50-67; 11:1-39.

As to claims 9, 24, and 39,

wherein the statistics comprise object-level statistics; See ; See 9:11-62;
10:50-67; 11:1-39.

As to claims 10, 25, and 40,

wherein the statistics comprise activity-level statistics; See 9:11-62; 10:50-67;
11:1-39.

As to claims 11, 26, and 41,

wherein the determining the characteristics of the database objects comprises
determining the characteristics of the database objects using the collected statistics;
;See 9:11-62; 10:50-67; 11:1-39.

As to claims 12, 27, and 42,

wherein the determining the characteristics of the database objects comprises
determining the characteristics of the database objects using the one or more policies;
See 9:11-62; 10:50-67; 11:1-39.

As to claims 13, 28, and 43,

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using the one or more definitions; See 9:11-62; 10:50-67; 11:1-39.

As to claims 14, 29, and 44,

customizing the one or more definitions; See 9:11-62; 10:50-67; 11:1-39.

As to claims 15, 30, and 45,

customizing the one or more policies; See 9:11-62; 10:50-67; 11:1-39.

Double Patenting

Claims 1-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as claiming the same invention as that of claims 1-36 of copending Application No. 09/990,583. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of U.S. Patent Publication No. 2002/0091708. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are broader than claims 1-36 of

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Vos et al. '708 which encompasses the same metes, bounds, and limitations.

The non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Leung et al. U.S. Patent No. 6,282,570 ('Leung').

Leung discloses:

As to claims 1, 16, and 31,

determining actions to be performed on one or more database objects to modify the one or more database objects, wherein a database comprises the one or more

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database objects; performing the actions on the database objects; See Abstract; 4:1-25; 5:21-55; 8:41-65; 10:22-54;

monitoring results of the performing the actions on the database objects; and reconfiguring one or more policies or definitions associated with the database based on the monitoring the results of the performing the actions on the database objects; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 2, 17, and 32,

automatically determining a schedule for performing the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 3, 18, and 33,

wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 4, 19, and 34,

confirming the performing the actions on the database objects; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 5, 20, and 35,

collecting statistics relating to operation of a database; See Abstract; 4:1-25;
5:21-55; 8:41-55; 10:22-54; and

determining characteristics of the database objects; See Abstract; 4:1-25; 5:21-
55; 8:41-55; 10:22-54.

As to claims 6, 21, and 36,

wherein the determining the characteristics of the database objects comprises
automatically determining the characteristics of the database objects; See Abstract; 4:1-
25; 5:21-55; 8:41-55; 10:22-54.

As to claims 7, 22, and 37,

wherein the determining the actions to be performed on the database objects
comprises determining the actions to be performed on the database objects based on
the characteristics of the database objects; See Abstract; 4:1-25; 5:21-55; 8:41-55;
10:22-54.

As to claims 8, 23, and 38,

wherein the determining the actions to be performed on the database objects
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characteristics of the database objects; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 9, 24, and 39,

wherein the statistics comprise object-level statistics; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 10, 25, and 40,

wherein the statistics comprise activity-level statistics; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 11, 26, and 41,

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using the collected statistics; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 12, 27, and 42,

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using the one or more policies; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 13, 28, and 43,

wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using the one or more definitions; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 14, 29, and 44,

customizing the one or more definitions; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

As to claims 15, 30, and 45,

customizing the one or more policies; See Abstract; 4:1-25; 5:21-55; 8:41-55; 10:22-54.

Response to Arguments

Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Rones whose telephone number is 571-272-4085. The examiner can normally be reached on Monday-Thursday 8am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles Rones
Primary Examiner
Art Unit 2164

April 11, 2005